REMARKS

The Office Action mailed March 31, 2008 has been received and carefully noted. Claims 1, 2, 4-8, 10-29, 31-35, and 37-43 are currently pending in the subject application and are presently under consideration.

Claims 12, 16, 20, 24, and 39 have been amended herein. A listing of claims can be found on pages 3-12 of this Response. The Specification has been amended as shown on page 2 of this Response.

Favorable reconsideration of the pending claims is respectfully requested in view of the amendments and the following comments.

I.   Rejection of Claims 28-38 Under 35 U.S.C. § 101

Claims 28-38 stand rejected under 35 U.S.C. § 101. The Specification has been amended to remove the reference to signals, which the Applicants believe resolves this issue. Reconsideration and withdrawal of these rejections are respectfully requested.

II.   Rejection of Claims 1 and 28 Under 35 U.S.C. § 102(e)

Claims 1 and 28 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Sauvage (U.S. Patent No. 6,651,185). It is respectfully requested that these rejections be withdrawn for at least the following reason. Sauvage does not describe each and every element of the claims.

> For a prior art reference to anticipate, 35 U.S.C. §102 requires that *"each and every element* as set forth in the claim is found, either expressly or inherently described, in a single prior art reference."

In re Robertson, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950 (Fed. Cir. 1999) (*quoting Verdegaal Bros., Inc. v. Union Oil Co.*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)) (emphasis added). In particular, independent claim 1 recites:

> *clearing* the first set of data by the second network process *if a time period expires, the time period beginning upon receiving the notification of death*; and
> *synchronizing* by the second network process the first set of data with a second set of data *if the time period does not expire*, the second set of data received from the first network process after the first network process restarts.

(emphasis added). Independent claim 28 recites analogous aspects. Sauvage does not describe these aspects.

First, Sauvage does not disclose "*clearing* the first set of data by the second network process *if a time period expires*" (emphasis added) (*See* independent claims 1 and 28). The Examiner contends that Sauvage discloses this aspect in col. 2, line 51 – col. 3, line 11, adding that "a time period is then set for confirming the death of the first process, once the time period has expired the first process is confirmed dead and the standby process becomes active and takes over the tasks of the first process" (*See* Office Action mailed March 31, 2008, pg. 3). However, the cited passage and the Examiner's statement do not appear to address the "clearing" aspect of the claims. While a standby process may take over for an active process, this takeover process does not disclose that the standby process would clear any data, much less "the first set of data [which was received from a first network process]" (*See* independent claims 1 and 28). If the Examiner maintains these rejections, the Applicants respectfully request that the Examiner clarify where the "clearing" limitation of the claims appear in col. 2, line 51 – col. 3, line 11.

Second, Sauvage fails to disclose the time period as it relates to the "clearing" and "synchronizing" limitations of the independent claims. The independent claims

recite that data is cleared if the time period has expired and data is synchronized if that time period has not expired. The Examiner cites col. 2, line 51 – col. 3, line 11 for the "clearing" limitation (as mentioned above) and cites col. 5, ll. 6-27 for the "synchronizing" limitation, adding that the cited passage describes "synchronizing the data from of [*sic*] the first process with a second process or by respawning the process with the updated data" (*See* Office Action mailed March 31, 2008, pg. 4). However, Sauvage is silent regarding a "time period beginning upon receiving the notification of death" that corresponds to both clearing and synchronizing data (*See* independent claims 1 and 28). The Examiner notes that col. 2, line 51 – col. 3, line 11 discloses that a time period is set before a standby process becomes active, but the cited passage merely states that a standby process would become active when the previously active process dies. Sauvage does not disclose any such time period that would be involved in a decision to clear data in one case and synchronize data in another, depending on whether the time period has expired or not. Therefore, Sauvage does not describe the time period as related to clearing or synchronizing data.

In view of the above, Sauvage does not describe each and every element of independent claims 1 and 28. Accordingly, it is respectfully requested that these rejections be withdrawn.

III. Rejection of Claims 2, 4-8, 10, 11, 16-27, 29, 31-35, and 37-43 Under 35 U.S.C. § 103(a)

Claims 2, 4-8, 10, 11, 16-27, 29, 31-35, and 37-43 stand rejected under 35 U.S.C. § 103(a) as being obvious over Sauvage, in view of Fuchs *et al.* (U.S. Patent No. 5,440,726) (Fuchs). Independent claims 7, 16, 20, 24, 34, 39, and 43 include limitations analogous to the limitations of independent claims 1 and 28. Dependent claims 2, 4-6, 8, 10, 11, 17-19, 21-23, 25-27, 29, 31-33, 35, 37, 38, 41, and 42 each depend from one of the independent claims, thus incorporating the respective limitations thereof. The Examiner does not

indicate and the Applicants do not discern any part of Fuchs that cures the aforementioned deficiencies of Sauvage regarding the aspects of the independent claims. For at least the reasons regarding the aspects of the independent claims, Sauvage and Fuchs, alone or in combination, do not teach or suggest all the claim limitations. The Applicants respectfully request reconsideration and withdrawal of these rejections.

IV.   Rejection of Claims 12-15 Under 35 U.S.C. § 103(a)

Claims 12-15 stand rejected under 35 U.S.C. § 103(a) as being obvious over Sauvage, Kidder *et al.* (U.S. Patent No. 6,694,450) (Kidder), and Damani *et al.* (U.S. Patent No. 5,938,775) (Damani). Independent claim 12, as amended, includes limitations analogous to the limitations of independent claims 1 and 28. Claims 13-15 depend from independent claim 12, thus incorporating the limitations thereof. The Examiner does not indicate and the Applicants do not discern any part of Kidder or Damani that cures the aforementioned deficiencies of Sauvage regarding the aspects of the independent claims. Therefore, for at least the above reasons regarding the independent claims, Sauvage, Kidder, and Damani, alone or in combination, do not teach or suggest all the claim limitations. The Applicants respectfully request reconsideration and withdrawal of these rejections.

CONCLUSION

In view of the foregoing, it is believed that all claims now pending patentably define the subject invention over the prior art of record, and are in condition for allowance and such action is earnestly solicited at the earliest possible date. If the Examiner believes a telephone conference would be useful in moving the case forward, he is encouraged to contact the undersigned at (310) 207-3800.
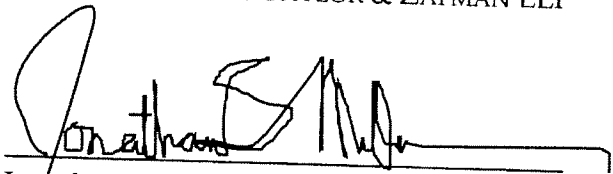
If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2666 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17, particularly extension of time fees.

Respectfully submitted,

BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP

Dated: _6/30/08_

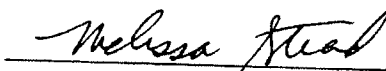Jonathan S. Miller
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CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being submitted to the United States Patent and Trademark Office electronically via EFS Web on the date shown below.

Melissa Stead   6-30-08

Melissa Stead   Date